

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

STEPHEN BARRINGTON,)	CASE NO.: 5:11CV2759
)	
Plaintiff,)	JUDGE JOHN ADAMS
)	
)	
LEATT CORPORATION, et al.,)	
)	<u>ORDER</u>
)	
Defendants.)	
)	

Pending before the Court are *Daubert* motions seeking to exclude the testimony of William Kitzes (Doc. 106), Richard Stalnaker (Doc. 117), Joseph Burton (Doc. 127), Carol Pollack-Nelson (Doc. 131), and Mitchell Garber (Doc. 134). These same motions were filed in the companion case involving the same product, *S.S. v. Leatt Corporation*, 1:12CV483. Moreover, the arguments raised by the parties were thoroughly addressed in the 37-page memorandum issued by the district judge presiding over that matter. *Id.*, Doc. 94. Having closely reviewed that memorandum and the parties' extensive briefing, the Court fully adopts the reasoning espoused by Judge Gaughan in *S.S. v. Leatt Corporation*, 1:12CV483. Accordingly, the expert testimony of William F. Kitzes and Carol Pollack-Nelson shall be excluded. All other expert testimony will be considered by the Court.

Further pending before the Court is Defendants' motion for summary judgment which contains the same arguments as raised in *S.S.* Accordingly, for the same reasons stated by Judge Gaughan therein, the motion for summary judgment is GRANTED IN PART and DENIED IN PART. Plaintiff's product liability claims shall move forward to trial. Plaintiff's claims for

misrepresentation (Count Three) and Consumer Practices Violation (Count Four) are hereby dismissed as those claims are abrogated by the Ohio Products Liability Act.

As the companion case is set for trial in early April of 2014, all other dates and deadlines in this matter are hereby STAYED pending completion of trial in that matter.

IT IS SO ORDERED.

March 6, 2014

/s/ John R. Adams
JUDGE JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE